HON'BLE SRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G.BHAVANI PRASAD

-

WRIT PETITION No. 7572 of 2006

Between:

Meherchand Nori

…Petitioner

and'

Union of India rep. by its Secretary,

Ministry of Information and Broadcasting,

Shastry Bhavan, New Delhi and others

…Respondents

ORDER

-

Counsel for the petitioner : Sri Vedula Srinivas

Dated: 20-4-12006

Per Sri G.S.Singhvi, CJ

In this petition filed under Article 226 of the Constitution of India, the petitioner who is an advocate practicing in the High Court and subordinate Courts at Hyderabad has prayed for issue of a direction to respondents 2 and 3 to implement the provisions of Section 4 of the Cigarettes and Other Tobacco Products (Prohibition Of Advertisements and Regulation Of Trade and Commerce, Production, Supply and Distribution) Act, 2003 and Rules 4 (6A) and (6B) of the Prohibition on Sale of Cigarettes and other Tobacco Products Around Educational Institutions Rules, 2004.

We have heard Sri V.Srinivas. In our opinion, the writ petition is liable to be

dismissed, because the petitioner has failed to produce any iota of evidence to show that the respondents are not implementing the provisions of 2003 Act and Rules framed there under. The petitioner has not referred to or highlighted any incident of violation of Section 4 of 2003 Act or Rules 4 (6A) and 4 (6B) of the Rules. Therefore, we are not inclined to entertain the omnibus prayer made by him in the name of public interest litigation.

We are further of the view that a person who seeks to invoke the High Court's jurisdiction for enforcing legislative and executive instrument framed/issued in the interest of public at large, is duty bound to bring to the notice of the concerned authority violation of such legislative and executive instruments so as to enable them to take remedial measures. Only in the event of failure of the concerned public authorities to take action in consonance with the relevant provisions, such person can seek intervention of the Court.

Since the petitioner has failed to discharge the burden of establishing prima facie case, we decline to entertain his prayer and dismiss the writ petition.

However, liberty is given to the petitioner to bring to the concerned authorities incidents involving violation of the provisions of the Act and the Rules and impress upon them to take corrective measures. If he fails to get response from the concerned authorities within a reasonable time, then the petitioner shall be free to seek the intervention of this Court.

G.S.SINGHVI, CJ

April 20, 2006

G.BHAVANI PRASAD, J

GRR